HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No.18281 of 2006

01-09-2006

Between:

1. N.Varalakshmi

Petitioner

Vs.

1. The District Collector, East Godavari at Kakinada and others.

.. Respondents

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ORAL ORDER:

The petitioner's lands are sought to be acquired by the issuance of a notification dated 05-07-2006 under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'). Urgency clause was invoked under Section 17 (4) of the Act and the enquiry under Section 5-A of the Act was dispensed with mechanically and without due application of mind, is the complaint. Draft declaration under Section 6 of the Act dated 10-07-2006 has been issued.

2. The impugned notification states that the acquisition is for the purpose of allotment of house-sites for weaker sections. This requirement is not of such an emergent nature as would justify invocation of the urgency clause and dispensing with the enquiry under Section 5-A of the Act. The enquiry under Section 5-A of the Act is a salutary statutory provision intended for affording a reasonable opportunity to the owners of lands to object to the acquisition on any relevant grounds as they wish to submit.

3. In the aforesaid circumstances, the decision in the impugned notification to invoke the urgency clause and dispensing with the enquiry under Section 5-A of the Act is declared irrational and unsustainable. The respondents are directed to issue notice to the petitioner for submission of objections if any to the proposal to acquire the lands. On the petitioner's submitting their objections within the time stipulated in the notice, the same shall be considered and an appropriate decision taken duly

communicating the decision to the petitioner simultaneously with the recommendations made after the enquiry under Section 5-A of the Act by the acquiring authority. The petitioner shall not be dispossessed pending communication of the decision to the petitioner consequent on the enquiry under Section 5-A of the Act. The draft declaration issued under Section 6 of the Act dated 06-08-2006 is quashed.

The writ petition is disposed of as above at the stage of admission, after hearing the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition. There shall however be no order as to costs.

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September 1, 2006
KVR